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Before the  
Federal Communications Commission  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of:

Amendment of Section 73.606(b),  
Table of Allotments,  
TV Broadcast Stations.  
(Lexington, Kentucky)

MM Docket No. 00-\_\_\_\_\_  
RM-\_\_\_\_\_

To: Chief, Mass Media Bureau

**PETITION FOR RULE MAKING**

Pappas Telecasting of America, a California Limited Partnership ("Pappas") and Television Capital Corporation of Lexington ("TC") hereby petition for rulemaking to amend the Table of Allotments for NTSC TV Broadcast Stations to substitute Channel 59 for Channel 62 at Lexington, Kentucky. Pappas and TC (collectively "Petitioners") submit this Petition in response to the Mass Media Bureau's Public Notice *Mass Media Bureau Announces Window Filing Opportunity for Certain Pending Applications and Allotment Petitions for New Analog TV Stations*, DA 99-2605 (Released November 22, 1999) (hereafter "*Public Notice*"). In support of this Petition, Pappas and TC submit the following:

1. Pappas and TC filed mutually exclusive applications for a construction permit for a new TV broadcast station on Channel 62 at Lexington, Kentucky (File Nos. BPCT-960722KH and BPCT-960920WQ, respectively). Marri Broadcasting, LP ("Marri") filed a mutually exclusive application for the same channel (File No. BPCT-960920IM).

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2. On January 30, 1998, Pappas, TC and Marri filed a “Joint Request for Approval of Universal Settlement” (“Joint Request”). The Joint Request requested dismissal with prejudice of the Marri application. The Joint Request further requested approval of a separate agreement whereby Pappas and TC agreed to eliminate mutual exclusivity by merging their interests to form Commonwealth Communications, LLC (“Commonwealth”), amending the Pappas application to substitute Commonwealth as the applicant and dismissing with prejudice the TC application. The Joint Request remains pending.

3. Pappas, TC and ACME Communications, Inc. (“ACME”) have entered into an “Agreement” that proposes to substitute ACME for Commonwealth and anticipates issuance of the construction permit to ACME. Pappas, TC and ACME are filing concurrently a “Supplement to Joint Request for Approval of Universal Settlement” (“Supplement”). Before the Bureau can grant the Joint Request and the Supplement and approve the agreements attached thereto, the Bureau must first adopt and release a Report and Order amending the TV Table of Allotments to substitute a new channel for Channel 62 at Lexington, Kentucky.

4. The *Public Notice* opened “a window filing opportunity to allow persons with certain pending requests for new analog (NTSC) television stations to modify their requests, if possible, to eliminate technical conflicts with digital television (DTV) stations and to move from channels 60 through 69.” *Public Notice*, p. 1. More specifically, the *Public Notice* opened a window for the filing of “petitions for rule making seeking a new channel below channel 60 for those applicants with pending applications for new full-service NTSC television stations on channels 60-69.” *Id.* Pappas, TC and Marri come

within this eligibility category because they filed applications for new full-service NTSC television stations on Channel 62 at Lexington, Kentucky.

5. The appended Engineering Statement provides documentation to support this request to substitute Channel 59 for Channel 62 at Lexington, Kentucky.<sup>1</sup> Upon the amendment of the TV Table of Allotments, the technical portion of the application BPCT-960722KH, currently pending in the name of Pappas,<sup>2</sup> will be amended to specify operation on the substitute channel.

6. The public interest is obviously served by grant of this petition, because it gives effect to the Commission's *Public Notice*, it facilitates the clearing of the Channel 60-69 band for new wireless communications uses, and it expedites the inauguration of a new television service at Lexington, Kentucky, on Channel 59.

WHEREFORE, Pappas and TC request that the Commission adopt and release a Notice of Proposed Rule Making, proposing to amend the NTSC TV Table of Allotments, and thereafter adopt and release a Report and Order amending the NTSC TV Table of Allotments as follows:

<b>Community</b>	<b>Present</b>	<b>Proposed</b>
Lexington, KY	18+, 27-, 36, *46, 62	18+, 59, 27-, 36, *46
Bowling Green, KY	13, 24, 40, 53, 59	13, 24, 40, 53.


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<sup>1</sup> This petition supports the Commission's Notice of Proposed Rule Making in MM Docket No. 00-118, RM-9757, proposing the substitution of DTV Channel 13 for DTV Channel 59 at Lexington, Kentucky.


<sup>2</sup> The Pappas application will be amended to specify ACME Television Licenses of Kentucky, LLC ("ACME Kentucky") as the applicant. ACME Kentucky is controlled by ACME.

Respectfully submitted,

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Dated: July 17, 2000

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Dated: July 17, 2000

***CARL T. JONES***  
***CORPORATION***

STATEMENT OF WILLIAM J. GETZ  
IN SUPPORT OF A PETITION TO AMEND  
THE TV TABLE OF ALLOTMENTS

I am a Radio Engineer, an employee in the firm of Carl T. Jones Corporation with offices located in Springfield, Virginia. My education and experience are a matter of record with the Federal Communications Commission.

This office has been authorized to prepare this statement in support of a Petition to Amend the Television (TV) Table of Allotments, Section 73.606(b) of the FCC Rules, in connection with pending applications for a construction permit for a new TV station on Channel 62 at Lexington, Kentucky, and in response to the Mass Media Bureau's November 22, 1999, Public Notice DA-99-2605. The petitioner requests that Section 73.606(b) of the FCC Rules be modified in the following manner:

	<u>Present</u>	<u>Proposed</u>
Lexington, KY	18, 27, 36, 46, 62	18, 27, 36, 46, 59
Bowling Green, KY	13, 24, 40, 53, 59	13, 24, 40, 53

Channel 62 is the channel specified in the TV Table of Allotments for a new analog TV station to serve Lexington, Kentucky. Television channel 62 is in the 700 MHz frequency band in which Congress has mandated the FCC to reallocate and auction on September 6, 2000. The FCC is in the process of promoting and facilitating the rapid clearing of this spectrum. This proposed rulemaking will help facilitate the transition of this

STATEMENT OF WILLIAM J. GETZ  
PAGE 2

spectrum from broadcast and wireless use to the broader range of wireless technologies by proposing a channel substitution for the existing channel 62 allocation in Lexington, Kentucky.

In light of the planned frequency reallocation, the proponent has undertaken an exhaustive frequency search for a new television channel to be added within the core television frequency band for use in Lexington, Kentucky, in lieu of Channel 62. Every potential television broadcast channel from VHF channel 2 to UHF channel 58 was found to have a prohibitive, cochannel spacing restraint presented by a full service analog television station or a new DTV allocation or DTV assignment.<sup>1</sup>

The best possible, least preclusive channel was found to be TV Channel 59. In order to accommodate the proposed Channel 59 at Lexington, the proponent requests the deletion of a vacant and un-applied-for Channel 59 allotment at Bowling Green, Kentucky. In addition, the instant proposal supports the proposed substitution of DTV channel 13 for DTV Channel 59 at Lexington, Kentucky.<sup>2</sup> Considering the change at Bowling Green (proposed herein) and the substitution of DTV channel 13 for DTV channel 59 at Lexington

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<sup>1</sup> UHF Channel 20 received close study because TV station WBXX-TV, Channel 20, Crossville, Tennessee presents the co-channel spacing restraint. The licensee of WBXX-TV is related to a proposed party in the Lexington proceeding and would be willing to consent to the new cochannel short-spacing. If the FCC were to consider waiving Section 73.610 with respect to cochannel short-spacings of the magnitude involved, then the Commission might consider the merits of substituting Channel 20 for Channel 62 at Lexington instead of Channel 59. Appendix A, attached, details the technical specifics of Channel 20 in lieu of Channel 62 at Lexington.

<sup>2</sup> See *Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcasting Stations. (Lexington, Kentucky)*. MM Docket No. 00-118, RM-9757, Notice of Proposed Rulemaking Adopted June 26, 2000, Released June 29, 2000. The Comment Date in MM Docket No. 00-118 is August 21, 2000; the Reply Comment Date is September 5, 2000.

STATEMENT OF WILLIAM J. GETZ  
PAGE 3

(proposed in MM Docket No. 00-118), the proposed substitution of analog Channel 59 for analog Channel 62 at Lexington, Kentucky, satisfies all minimum distance separations contained in Section 73.610 of the FCC Rules.

An engineering study of all pertinent allotments, assignments and applications revealed TV Channel 59 can be allotted to Lexington, Kentucky. The allotment reference coordinates for TV Channel 59 at Lexington, Kentucky, are 37° 47' 00" N.L. and 84° 15' 19" W.L. The Lexington allotment reference site meets the allotment standards of 47 C.F.R. §73.610 and the city-grade coverage requirements of 47 C.F.R. §73.685. In addition, a detailed interference study using the FCC's FLR program to incorporate Longley-Rice methodology in the determination of interference between stations, as outlined in OET Bulletin No. 69, revealed that the proposed channel will cause no interference to any DTV assignments or DTV allocations.

It is anticipated that the Lexington channel 59 television facility will be a short-term analog UHF television facility, serving the population of Lexington during the nationwide transition to DTV. Once a suitable DTV channel within the core frequency spectrum becomes available for the Lexington allotment, a Petition for Rulemaking will be prepared to begin the proponent's own transition to DTV and migration from analog Channel 59.

It is submitted that the instant proposal satisfies the technical allotment criteria of the Federal Communications Commission with respect to all analog TV and DTV allotments, assignments and applications. Grant of instant rulemaking proposal would

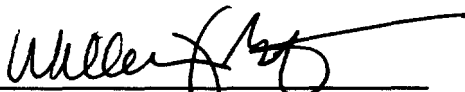


STATEMENT OF WILLIAM J. GETZ  
PAGE 4

assist is facilitating the removal of a full-service television allocation from the 700 MHz band and may help expedite the scheduled auction for the newly allocated commercial and public safety services and would preserve the new UHF television allocation to Lexington, Kentucky.

This statement was prepared by me or under my direct supervision and is believed to be true and correct.

DATED: July 7, 2000

  
\_\_\_\_\_  
William J. Getz

**Technical Details Pertaining to the Substitution  
of analog Channel 20 for analog Channel 62  
at Lexington, Kentucky  
July, 2000**

If the FCC were to consider waiving Section 73.610 with respect to cochannel short-spacings, then the Commission might consider the merits of substituting Channel 20 for Channel 62 at Lexington instead of Channel 59 as detailed herein.

An engineering study of all pertinent allotments, assignments and applications revealed TV Channel 20 can be allotted to Lexington, Kentucky. The allotment reference coordinates for TV Channel 20 at Lexington, Kentucky, are 37° 48' 39" N.L. and 84° 18' 01" W.L. The Lexington allotment reference site meets the allotment standards of 47 C.F.R. §73.610 (except for the analog television stations discussed herein) and the city-grade coverage requirements of 47 C.F.R. §73.685. In addition, a detailed interference study using the FCC's FLR program to incorporate Longley-Rice methodology in the determination of interference between stations, as outlined in OET Bulletin No. 69, revealed that the channel 20 will cause no interference to any DTV assignments or DTV allocations.

The channel 20 alternate allotment reference site is separated from the cochannel television station WBXX-TV, Crossville, Tennessee, by 188.9 kilometers. The required cochannel minimum distance spacing contained in Section 73.610 of the FCC Rules is 280.8 kilometers.

In order preserve the new Lexington UHF TV allocation, assist in the facilitating the rapid clearing of television channels 60 through 69, with the consent of WBXX-TV, the alternate rulemaking proposal requests a waiver of Section 73.610 with respect to the 91.9 km short-spacing to cochannel station WBXX-TV, Crossville, Tennessee. In addition the alternate rulemaking proposal requests a waiver of Section 73.610 with respect to a 68.8 km (n+7) taboo short-spacing to analog channel 27, WKYT-TV, Lexington, Kentucky.

With respect to the WBXX-TV short-spacing, the Channel 20 Lexington analog television facility would be engineered and constructed in cooperation with WBXX-TV to limit predicted interference caused to the WBXX-TV. The reallocation to analog TV channel 20 would allow for the implementation of the allocated full service television facility to the population of Lexington while assisting in the clearing of TV Channels 60 through 69.

Further, it is anticipated that the Lexington channel 20 television facility will be a short-term analog UHF television facility, operating within the core broadcast television frequency spectrum during the nationwide transition to DTV. Once a suitable DTV channel becomes available for the Lexington allotment, a Petition for Rulemaking will be prepared to begin the proponent's own transition to DTV and migration from analog Channel 20.

The proponent would also request a waiver with respect to the proposed 68.8 kilometer short-spacing to full service, analog television station, channel 27-, WKYT-TV, Lexington, Kentucky. This is an analog television taboo (n+7) short-spacing which would theoretically result in local oscillator (LO) interference to WKYT-TV. Considering today's television receivers, actual LO interference caused to WKYT-TV is not likely to occur. This

is because television receivers manufactured in the last twenty years have been designed and utilize tuning circuitry that is immune to the type of LO interference that these minimum distance spacings seek to prevent.

During the application stage, where the public interest benefits clearly outweigh the fact that a LO short-spacing is to be created (such as this), the FCC routinely grants waivers of Section 73.610 of the FCC Rules.<sup>3</sup> The proponent respectfully requests a waiver of Section 73.610 with respect to the WKYT-TV taboo channel short-spacing at the allocation stage. The greater public interest benefit obviously lies with the implementation of an allocated full service television station which would cause little if any LO interference to WKYT-TV (while helping to expedite the planned auction for the newly allocated commercial and public safety services on TV channels 60 through 69) in comparison to the simple deletion of Channel 62 which would result in a complete loss of an allocated television service to the community of Lexington.

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<sup>3</sup> The public interest benefit was the main justification used in the FCC's letter granting a waiver of the local oscillator "UHF taboo" spacing requirement for KHIM(TV), Conroe, Texas. (See BPCT-951026KE, FCC letter decision dated May 31, 1996).